

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

THE PICTSWEET COMPANY,)	
)	
Plaintiff,)	
)	Civil Action No.: 3:19-cv-00722
v.)	
)	Judge Aleta Trauger
R.D. OFFUTT FARMS CO.; R.D.)	
OFFUTT COMPANY; R.D. OFFUTT)	
COMPANY-NORTHWEST; CRF)	
FROZEN FOODS, LLC,)	
)	
Defendants.)	
)	

MOTION TO PARTIALLY EXCLUDE PLAINTIFF'S EXPERT SCOTT STILLWELL

Defendants R.D. Offutt Farms Co., R.D. Offutt Company, R.D. Offutt Company-Northwest, and CRF Frozen Foods, LLC (collectively, “Defendants”), through their undersigned counsel, respectfully move to partially exclude Plaintiff The Pictsweet Company’s (“Pictsweet”) expert Scott Stillwell pursuant to Federal Rule of Evidence 702 and Federal Rule of Civil Procedure 37(c).

In support of this motion, Defendants rely on their contemporaneously filed memorandum of law and supporting Exhibits 1-3. As described in the memorandum of law, the Court should exclude Mr. Stillwell’s proffered testimony regarding: (1) whether any Defendant was the alter ego of any other entity; (2) which legal or ethical standards governed the conduct of Defendants and their officials and whether they met those standards; and (3) whether there were *Listeria monocytogenes* “harborages” in CRF Frozen Foods, LLC’s facility under Rule 702. Respectively, (1) Mr. Stillwell was not asked to opine on alter ego issues in this matter, has no experience to

opine on alter ego issues, and did not review any documents from this matter relevant to alter ego; (2) his repeated testimony on what a corporation and its “officials” *should* do improperly calls upon the jury to apply an incorrect legal standard in order to target Defendants and unnamed individuals with legal and ethical liabilities, and in so doing, supplants the Court’s role in announcing the relevant legal standards; and (3) Mr. Stillwell is not qualified—because he is a self-described administrator and not a microbiologist—to opine on whether a *Listeria monocytogenes* harborage existed and his proffered methodology, lacking in the information needed to make such a determination, is not reliable.

For these reasons, the Court should enter an order granting Defendants’ motion and partially excluding Pictsweet’s expert Scott Stillwell from testifying in this action.

Date: June 10, 2022

s/ Alyssa L. Rebensdorf

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DEFENDANTS' CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

Pursuant to Local Rule 7.1, Counsel for the Defendants hereby certify that they have in good faith attempted to consult with counsel for the Plaintiff and have been unable to resolve this matter.

Date: June 10, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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